

CAUSE NO. CR-1522-89-G  
CAUSE NO. CR-1767-89-G

THE STATE OF TEXAS

X

IN THE 370TH DISTRICT COURT

VS.

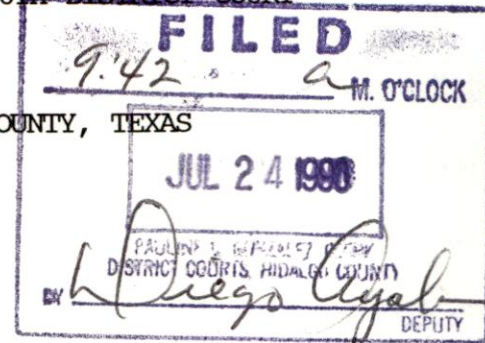
X

OF

HECTOR GARCIA  
AKA HECTOR TORRES GARCIA  
AKA TETO

X

HIDALGO COUNTY, TEXAS



CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, HECTOR GARCIA, also known as HECTOR TORRES GARCIA also known as TETO, stands charged by indictment with the offenses of Capital Murder and Aggravated Robbery alleged to have been committed in Hidalgo County, Texas on or about the 25TH day of AUGUST, 1989. The Defendant has plead not guilty to both charges.

1.

Our law provides that a person commits murder when he intentionally or knowingly causes the death of an individual. A person commits capital murder when such a person intentionally commits the murder in the course of committing or attempting to commit the offense of robbery.

2.

A person commits robbery if, in the course of committing theft, as defined hereinafter, and with intent to obtain and maintain control of property of another, he intentionally, knowingly or recklessly causes bodily injury to another; or intentionally or knowingly threatens or places another in fear of imminent bodily injury or death. The offense is aggravated if the person committing the robbery uses or exhibits a deadly weapon. A firearm is a deadly weapon.

3.

"In the course of committing theft" means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of theft.

"Attempt" to commit an offense occurs if, with specific intent to commit an offense, a person does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

"Bodily injury" means physical pain, illness, or any impairment or any physical condition, including death.

4.

"Theft" as used herein is the unlawful appropriation of the corporeal personal property of another, with the intent to deprive such other person of said property.

"Appropriation" and "appropriate," as those terms are used herein, means to acquire or otherwise exercise control over property other than real property. Appropriation of property is unlawful if it is without the owner's effective consent.

"Property" as used herein means tangible or intangible personal property or documents, including money, that represents or embodies anything of value.

"Deprive" means to withhold property from the owner permanently.

"Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion.

"Owner" means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged.

"Possession" means actual care, custody, control or management of property.

"Firearm" means a device designed, made or adapted to expel a projectile through a barrel by using the energy by an explosion or burning substance.

5.

A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct to engage in the conduct when it is his conscious objective to engage in the conduct or desire or cause the result.

A person acts "knowingly", or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

6.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 25th day of August, 1989, in Hidalgo County, Texas, HECTOR GARCIA AKA HECTOR TORRES GARCIA AKA TETO did intentionally cause the death of EDUARDO RIOS by shooting him with a deadly weapon, to wit: a firearm that in the manner of its use and intended use was capable of causing death and serious bodily injury while said Defendant was then and there in the course of committing and attempting to commit the offense of robbery of ADELMINA RIOS, then you will find the Defendant, HECTOR GARCIA AKA HECTOR TORRES GARCIA AKA TETO guilty of Capital Murder.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant, of Capital Murder and say by your verdict "Not Guilty".

7.

Before you would be warranted in convicting the Defendant of Capital Murder, you must find from the evidence beyond a reasonable doubt, not only that on the occasion in question he was engaged in the commission of robbery of ADELMINA RIOS (as robbery is defined in this charge), but also that during the commission of the robbery, if any, he shot EDUARDO RIOS with the intention of killing him. Unless you find from the evidence

beyond a reasonable doubt that the Defendant, on said occasion, specifically intended to kill Eduardo Rios when he shot him, if he did shoot him, you cannot convict him of the offense of Capital Murder.

8.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 25th day of August, 1989, in Hidalgo County, Texas, the Defendant, HECTOR GARCIA AKA HECTOR TORRES GARCIA AKA TETO, while in the course of committing theft of property from ADELMINA RIOS, and with intent to obtain and maintain control of said property, did intentionally or knowingly cause bodily injury to ADELMINA RIOS by shooting ADELMINA RIOS and the Defendant did then and there use and exhibit a deadly weapon, to-wit: a firearm that in the manner of its use and intended use was capable of causing death and serious bodily injury, then you will find the Defendant guilty of aggravated robbery as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of aggravated robbery.

9.

You are instructed that even if you find from the evidence beyond a reasonable doubt that EDUARDO RIOS was intentionally killed in the course of a robbery and that ADELMINA RIOS was robbed with a firearm but you further find that the Defendant was not the person committing the shooting and robbery, or if you have a reasonable doubt thereof, you will acquit the Defendant of both Capital Murder and Aggravated Robbery.

10.

You are instructed that an "accomplice", as the term is hereinafter used, means any person connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime, as such parties, by unlawful act or omission on their part transpiring either before or during the time of the commission of the offense. A person is criminally responsible as a party to an offense if the offense is committed

by his own conduct, by the conduct of another for which he is criminally responsible, or by both. Mere presence alone, however, will not constitute one a party to an offense.

The witness EDWARD MORALES, is an accomplice, if an offense was committed, and you cannot convict the Defendant upon his testimony unless you first believe that his testimony is true and shows that the Defendant is guilty as charged, and then you cannot convict the Defendant upon said testimony unless you further believe that there is other testimony in the case, outside of the evidence of the said EDWARD MORALES tending to connect the Defendant with the offense committed, if you find that an offense was committed, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the Defendant with its commission, and then from all of the evidence you must believe beyond a reasonable doubt that the Defendant is guilty of the offense charged against him.

11.

Our law provides that a Defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded a Defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstances against him. In this case, the Defendant, HECTOR GARCIA AKA HECTOR TORRES GARCIA AKA TETO, has elected not to testify, and you are instructed that you cannot and must not refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the Defendant.

A grand jury indictment is merely the means under our law by which a Defendant is brought to trial in a felony prosecution. It is not evidence of guilt and you should not consider it in passing on the question of guilt of the Defendant. The fact that the Defendant has been arrested, confined, and indicted for, or otherwise charged with the offense for which he is on trial gives rise to no inference of guilt at his trial.

The burden of proof in all criminal cases rest upon the State throughout the trial,

and never shifts to the Defendant. All person are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. If you have a reasonable doubt as to any element of the offense after considering all the evidence before you and these instructions, you will acquit the Defendant.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and the weight to be given their testimony, but the law you shall receive in these written instructions, and you must be governed thereby.

In order to return a verdict, each juror must agree thereto, but jurors have a duty to consult with one another and to deliberate with a view to reaching an agreement, if it can be done without violence to individual judgment.

Each juror must decide the case for himself, but only after an impartial consideration of the evidence with his fellow jurors.

In the course of deliberations, a juror should not hesitate to re-examine his own views and change his opinion if convinced it is erroneous. However, no juror should surrender his honest conviction as to the weight or effect of the evidence solely because of the opinion of his fellow jurors, or for the mere purpose of returning a verdict.

From time to time throughout the trial the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. You are not to be concerned with the reasons for such a ruling and are not to draw any inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you, of course, must not consider the same; as to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor the guilt or innocence of the Defendant. The Court has not intended to express any such opinion, and if you have observed anything which you have or may have interpret as the Court's opinion upon any matter of fact in this case or of the guilt or innocence of the Defendant, you must wholly disregard it.

You are instructed that the statements of counsel made during the course of the trial or during the argument, if not supported by evidence, or statements of law made by counsel, if not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

After you retire to the jury room, you should first select one of the members as your Presiding Juror. It is the Presiding Juror's duty to preside at your deliberations, vote with you, and, when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto, and signing the same as Presiding Juror.

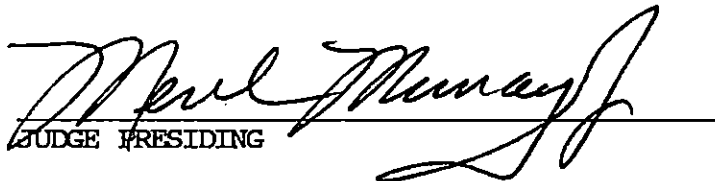
During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence. You must not discuss nor consider punishment during your deliberations. You are to concern yourselves solely with the question of guilt or innocence without any regard whatsoever to the possible punishment for the offense charged.

You may communicate with this Court during your deliberations. The communication must be in writing through the officer who has you in charge. Any such writing must be signed by the Presiding Juror. After you have retired, no one has any authority to communicate with you except the officer who has you in charge. Do not attempt to talk.

to the officer, or anyone else concerning any question you may have; instead address your inquiry to the Court in writing.

After you have reached a unanimous verdict, the Presiding Juror will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror. The Presiding Juror will then notify the officer who has you in charge that you have reached a verdict. Afterwards you will then be brought into open Court.

FILED: JULY 24, 1990.

  
JUDGE PRESIDING



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HIDALGO COUNTY, TEXAS

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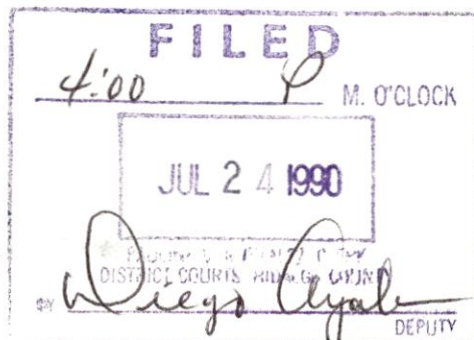
FORMS OF VERDICT

We, the Jury, find the Defendant, HECTOR GARCIA also known as HECTOR TORRES GARCIA also known as TETO NOT GUILTY of CAPITAL MURDER.

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PRESIDING JUROR

We, the Jury, find the Defendant, HECTOR GARCIA also known as HECTOR TORRES GARCIA also known as TETO, GUILTY OF CAPITAL MURDER AS CHARGED IN THE INDICTMENT.

*Gloria Carter*  
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PRESIDING JUROR



CAUSE NO. CR-1767-89-G

THE STATE OF TEXAS

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IN THE 370TH DISTRICT COURT

VS.

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OF

HECTOR GARCIA

X

HIDALGO COUNTY, TEXAS

AKA HECTOR TORRES GARCIA

AKA TETO

FORMS OF VERDICT

We, the Jury, find the Defendant, HECTOR GARCIA also known as HECTOR TORRES GARCIA also known as TETO "NOT GUILTY" of the offense of AGGRAVATED ROBBERY as charged in the indictment.

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PRESIDING JUROR

We, the Jury, find the Defendant, HECTOR GARCIA also known as HECTOR TORRES GARCIA also known as TETO, "GUILTY" of the offense of Aggravated Robbery as charged in the Indictment.

*Gloria Carter*  

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PRESIDING JUROR

